

REMARKS

Applicants respectfully traverse and request reconsideration.

Applicants wish to thank the Examiner for the Notice that claims 9-15 and 22-34 are allowed.

Applicants attorney also wishes to thank the Examiner for the courtesies extended during the telephone conference of October 25, 2004.

Claims 1-8, 16-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gindlesperger in further view of Computer Reseller News. In the "Response to Arguments" section of the final Office Action, it appears that the Patent Office is alleging that the positive claim limitations are apparently only being giving weight as though they were "intended use" limitations as found for example in a preamble. For example, the Office Action states

"In response to Applicants argument that there is no teaching or contemplation of neither a vendor certification operation nor a vender certification curriculum that is offered by a fee. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art."

Applicants respectfully submit that the claim limitations referred to in this portion, from claim 1 read as follows: "providing a vendor certification program comprising a curriculum via the communication network on a fee basis; receiving a notification that a vendor has successfully completed the vendor certification program; and granting certified vendor status upon the vendor indicated in the notification ...". None of these limitations are "intended use" limitations. As such, this reasoning appears to be misplaced.

In addition, the "Response to Arguments" section states that Applicants cannot show non-obviousness by attacking references individually where the rejections are based on a combination of the references. However, Applicants respectfully submit that as further pointed out below, the references must be viewed as a whole and that references that teach away from one another and the invention cannot render a claimed invention

obvious. Moreover, there must be some motivation, other than Applicants own claim language to combine selected teachings of differing references.

In addition, Applicants respectfully request a showing as to which language in the claim is allegedly “nonfunctional descriptive material” and allegedly does not provide any patentable weight if such rejection is maintained. (See for example Response page 11, first paragraph). The Office Action on page 4 thereof, admits Gindlesperger does not teach “receiving a notification that a vendor has successfully completed the vendor certification program, but then goes on to say a difference “is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited.” However, the final Office Action does not identify specifically which language in the claim is alleged to be “nonfunctional descriptive material.” As such Applicants respectfully request withdrawal of the finality of the Office Action so Applicants are given a proper opportunity to address the rejections set forth by the Patent Office.

For example, if the Patent Office’s position is that the entire step of “receiving a notification that a vendor has successfully completed the vendor certification program” is somehow “nonfunctional descriptive material” then Applicants need to be duly informed of the same. In any event, Applicants respectfully submit that such a rejection is improper. The claimed step is not merely nonfunctional descriptive material, but is instead an actual step in a method that is required in combination with other steps as set forth by Applicants. The Office Action not only admits that the primary reference does not teach this step, but does not provide any other reference or provide official notice of any other facts that teach this claim limitation. Since the rejection does not appear to meet the *prima facie* requirements of an obviousness rejection, Applicants respectfully submit that the claims are in condition for allowance.

Also, apparently with respect to the same limitation, the Office Action states “therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to collect from a vendor the type of data required by the buyer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.” Applicants cannot determine what claim language the Office Action is referring to since the collection of the data is not set forth in the claim limitation of

“receiving a notification that a vendor has successfully completed the vendor certification program.” Accordingly, Applicants respectfully submit that the Patent Office does not provide a *prima facie* case of obviousness since the Gindlesperger admittedly does not teach the claim step and nor does the secondary reference as a secondary reference has only been cited as allegedly teaching provided a vendor certification program via a communication network on a fee basis.

Moreover, as to paragraph 4 in the “Response to Arguments” section, the Applicant respectfully reasserts the relevant remarks made in their previous response. For example, Gindlesperger is not directed to a method for establishing a preferred business partner using a vendor certification program.

The Gindlesperger reference is directed to an apparatus and method for obtaining a lowest bid from information product vendors. The system and method utilizes a database of vendor records, each record identifying a vendor, one or more buyers who approve the vendor for receipt of invitations to bid and vendor capability data representing production and economic capabilities of the vendor. A buyer’s invitation for bid data is received and an invitation to bid on that product or service and data identifying a vendor requirements is calculated. A vendor’s invitation to bid is then sent to vendors from among those approved by the buyer associated with the buyer’s invitation for bid. As such, the buyer approves who the suitable vendors can be. In addition, the vendor capability that is referred to in the reference refers to information that the vendor fills out that represents its own production and the economic capabilities of the vendor. There is no teaching or contemplation of a vendor certification operation nor a vendor certification curriculum that is offered by a fee. The vendor capability data of Gindlesperger cannot correspond to, the claimed vendor certification data since the certification data as claimed must be generated upon completion of vendor certification curriculum. In Applicants’ invention a third party or other source, other than a vendor for example, offers a curriculum for a vendor to take and then determines whether or not a vendor has suitably completed a particular course or courses. Certification is provided indicating that the vendor has completed certification. Gindlesperger teaches an opposite approach wherein the vendor sets forth its own capabilities there is no receiving of a notification of

successful program completion nor granting certified vendor status as alleged in the office action.

For example, claim 1 requires, among other things, receiving a notification that a vendor has successfully completed the vendor certification program. Applicants respectfully request by column and line number a showing of where this is taught in Gindlesperger if the rejection is maintained. For example, it appears that Gindlesperger is silent as to this and other steps. The Gindlesperger reference does not indicate that a notification that a vendor has successfully completed a certification program that includes a curriculum is even contemplated. To the contrary, Gindlesperger teaches capability data that appears to be entered by the vendor. Moreover, this is not based on any completion of any vendor certification program that includes a curriculum as required. As such, the claim is in condition for allowance. In addition, there does not appear to be any granting of certified vendor status upon the vendor indicated in the notification nor any confirms of preferential consideration by an entity that, for example, may go online and see which vendors have completed the vendor certification program. (See for example claim 4). Accordingly, the claims are in condition for allowance.

The office action cites the Computer Reseller News as allegedly teaching that is known in the art to provide a vendor certification program via a communication network on a fee basis. It is also admitted that this reference does not teach about a curriculum associated with the certification program but is alleged that a certification program would have curriculum associated with it. As such, the claims are alleged to be obvious in view of this teaching. Applicants respectfully submit that the claims are allowable for the reasons set forth above. Moreover, Applicants respectfully submit that the references are not properly combinable. For example, there is no motivation, other than Applicants' own specification for combining the cited references. For example, Gindlesperger does not appear to be directed to any type of a system that contemplates a vendor certification program and to the contrary, appears to teach away from such an operation since the vendor is allowed to submit its own capability data. Moreover, the capability data has nothing to do with any vendor certification curriculum. In fact, the Gindlesperger reference teaches that no certification by any third party is required nor even needed. Moreover, the problems addressed by Gindlesperger and Applicants appear to be

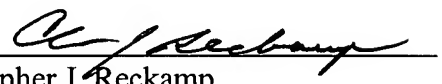
unrelated in that Applicants are seeking to provide a vendor certification program by providing a curriculum and also providing notification that the curriculum was suitably completed. Gindlesperger does not contemplate any such certification of a vendor and as such also appears to be directed to a completely different problem namely sending invitations to bid for qualified vendors. Accordingly, the claims are believed to be in condition for allowance.

Applicants respectfully reassert the relevant remarks made above with respect to claims 16-21. Accordingly, these claims are also believed to be in condition for allowance.

Applicants respectfully submits that the claims are in condition for allowance and that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

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